THE BOMBAY PREVENTION OF HINDU BIGAMOUS MARRIAGES ACT, 1946.

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BOMBAY ACT No. XXV OF 1946.[1]

[THE BOMBAY PREVENTION OF HINDU BIGAMOUS MARRIAGES ACT, 1946.]

[*6th November 1946.*]

Amended by Bom. 38 of 1948.
26 of 1949.

An Act to provide for the prevention of bigamous marriages among Hindus.

WHEREAS it is expedient to provide for the prevention of bigamous marriages among Hindus ; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Bombay Prevention of Hindu Bigamous Marriages Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

Application of Act.

2. The provisions of this Act shall apply to Hindus only.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " bigamous marriage " means the marriage of a person during the lifetime of his or her spouse, if the marriage of such person with such spouse has not been dissolved or declared void by a court of competent jurisdiction [2][or has not been dissolved], or is not void according to the custom or usage of the community to which either of the parties to such marriage belongs ; [3][but does not include the marriage of a person during the lifetime of his or her spouse, if such spouse at the time of such marriage shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided that the person contracting such marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge ;]

(*2*) " Hindu " includes a Sikh, Jain, Buddhist, a follower of the Arya or Brahma Samaj or a convert to Hinduism.

(*3*) " minor " means any person who is under sixteen years of age.

Bigamous marriages to be void.

4. Notwithstanding any law, custom or usage to the contrary, a bigamous marriage shall be void,—

(*a*) if it is contracted in this Province after the coming into force of this Act,

(*b*) if it is contracted beyond the limits of this Province after the coming into force of this Act and either or both the contracting parties to such marriage are domiciled in this Province.

Penalty for bigamous marriage.

5. Notwithstanding any law, custom or usage to the contrary, whoever not being a minor contracts a bigamous marriage which is void under section 4 [4][shall, on conviction, be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 70 ; for Report of the Select Committee, *see*, *ibid*, pp. 143-144; and for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

[2] These words were inserted by Bom. 26 of 1949, s. 2.

[3] These words were added by Bom. 38 of 1948, s. 2.

[4] These words were substituted for the original, *ibid.*, s. 3.

Penalty for solemnising bigamous marriage.

6. Whoever performs, conducts or abets any bigamous marriage in this Province shall, on conviction, be punishable with imprisonment of either discription for a term which may extend to six months or with fine or with both, unless he proves that he had reason to believe that the marriage was not a bigamous marriage.

Penalty for person having charge of minor concerned in bigamous marriage.

7. (*1*) When a minor contracts a bigamous marriage which is void under section 4, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or otherwise, who does any act to promote the marriage, or permits it to be solemnised or negligently fails to prevent it from being solemnised shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.

(*2*) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a bigamous marriage which is void under section 4, the person having charge of such minor, whether as parent or guardian, or in any other capacity, lawful or otherwise, has negligently failed to prevent the marriage from being soleminised.

Jurisdiction for offences under section 5.

[1][**8.** Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under section 5 may be tried by any Court of a Presidency Magistrate or a Magistrate of the First Class.

V of 1898.

Jurisdiction for offences under sections 6 and 7.

8A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under section 6 or 7.]

V of 1898.

Offences under this Act to be cognisable.

9. Offences under this Act shall be congnisable.

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[1] These sections were substituted for section 8, by Bom. 38 of 1948, s. 4.